

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HUMBERTO FAJARDO,
Petitioner,

No. C 10-3778 SI (pr)

ORDER OF DISMISSAL

v.

RANDY GROUNDS, warden,
Respondent.

Petitioner filed this habeas action to challenge a prison disciplinary decision. Respondent has moved to dismiss the petition on the grounds that (1) the petition fails to state a cognizable habeas claim because the time credit forfeiture part of the prison disciplinary decision was vacated and the decision therefore had no effect on the fact or duration of petitioner's confinement and (2) the petition was not timely filed. The court need not decide the merits of the unopposed motion to dismiss because another procedural problem compels dismissal.

On December 15, 2010, mail was sent to petitioner at the prison address he provided to the court and was returned undelivered on December 27, 2010, with a notation that petitioner had been paroled. Petitioner has not provided any address other than the one to which the undeliverable mail was sent. More than sixty days have passed since the mail was returned to the court undelivered. Petitioner has failed to comply with Local Rule 3-11(a) which requires that a party proceeding pro se must "promptly file with the Court and serve upon all opposing parties a Notice of Change of Address specifying the new address" when his address changes. Local Rule 3-11(b) allows the court to dismiss a complaint without prejudice when mail directed

1 to a pro se party is returned as not deliverable and the pro se party fails to file a notice of his
2 current address within sixty days of the return of the undelivered mail. For the foregoing
3 reasons, this action is dismissed without prejudice because petitioner failed to keep the court
4 informed of his address in compliance with Local Rule 3-11(a).

5 Respondent's motion to dismiss is DISMISSED as unnecessary. (Docket # 7.)

6 The clerk will close the file.

7 IT IS SO ORDERED.

8 Dated: May 5, 2011



9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUSAN ILLSTON
United States District Judge